

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, July 15, 2015 – 1:15 p.m. – Room 445 State Capitol

Members Present:

Sen. Deidre M. Henderson, Senate Chair
Sen. Gene Davis
Sen. Wayne A. Harper
Sen. Howard A. Stephenson
Rep. Joel K. Briscoe
Rep. Kim Coleman
Rep. Rich Cunningham
Rep. Steve Eliason
Rep. Eric K. Hutchings
Rep. Ken Ivory
Rep. John Knotwell
Rep. Marie H. Poulson
Rep. Jon E. Stanard

Members Absent:

Rep. Daniel McCay, House Chair
Sen. Curtis S. Bramble
Sen. Jim Dabakis
Rep. Gage Froerer
Rep. Jeremy A. Peterson

Staff Present:

Mr. Leif G. Elder, Policy Analyst
Mr. Bryant R. Howe, Assistant Director
Mr. John L. Fellows, General Counsel
Ms. Bree A. Frehner, Legislative Assistant

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Henderson called the meeting to order at 1:23 p.m. Sen. Dabakis, Rep. Froerer, and Rep. McCay were excused from the meeting.

MOTION: Rep. Cunningham moved to approve the minutes of the June 17, 2015, meeting. The motion passed unanimously. Sen. Harper, Rep. Hutchings, and Rep. Ivory were absent for the vote.

2. Report: Brine Shrimp Royalty

Mr. Elder provided background information on the brine shrimp royalty, referencing "Utah Code, Title 59, Chapter 23 – Brine Shrimp Royalty Act" and "Brine Shrimp Royalty Revenues," which were distributed prior to the meeting. He explained that the committee is required by statute to review the royalty every five years. He responded to questions from the committee.

Mr. Don Leonard, President, Utah Artemia Association, discussed Utah's governance of brine shrimp harvesting. He commented on the success of the local brine shrimp industry and the competition the industry faces. He gave a history of the brine shrimp royalty. He mentioned that the brine shrimp industry has an excellent working relationship with the Department of Natural Resources and the Utah State Tax Commission. He stated that the industry will continue to support the current royalty.

Rep. Eliason asked if live brine shrimp are harvested. Mr. Leonard responded that live brine shrimp may be harvested, but it is merely incidental. He explained that it is more common that eggs are harvested and processed so that they hatch on demand. He mentioned that the royalty is paid on all that is harvested, including both eggs and live brine shrimp.

Mr. Mike Styler, Director, Department of Natural Resources, commented that the department is content with the current structure of the brine shrimp royalty. He discussed the usefulness of brine shrimp royalty revenues for the department's efforts related to the Endangered Species Act.

MOTION: Sen. Davis moved that the committee vote to continue the brine shrimp royalty as currently constituted. The motion passed unanimously.

3. Rate Reduction for Utah Variable Life Insurance Premiums

Mr. Elder explained that, per the request of the committee at the May 20, 2015, meeting, draft legislation "Taxation of Admitted Insurers Amendments" (2016FL-0226/002) repeals the statutorily required report regarding the rate reduction in variable life insurance premiums. Chair Henderson recommended that if the committee adopts this draft legislation the committee does so in conjunction with other draft legislation concerning continuation, modification, or repeal of other statutorily required reports.

Rep. Cunningham asked why revenue from the rate reduction in variable life insurance premiums goes into the General Fund. He wondered how the rate reduction came about and whether a cap should be considered.

Mr. Elder mentioned that the rate reduction tax is paid in lieu of the corporate income tax. He commented that the section of code dealing with the rate reduction for variable life insurance premiums is usually handled by the Business and Labor Interim Committee.

Rep. Cunningham expressed a desire to study the rate reduction in variable life insurance premiums further. He expressed concern that repealing the reporting requirement may remove beneficial scrutiny.

Mr. Fellows enumerated some options for Rep. Cunningham to study the issue further.

Sen. Stephenson expressed concern that the rate reduction in variable life insurance premiums not only covers the cost of regulation, but also provides additional revenue for the state. He mentioned that if the committee chooses to evaluate one such tax, then all such taxes should be evaluated.

MOTION: Rep. Knotwell moved that the committee adopt draft legislation "Taxation of Admitted Insurers Amendments" as a committee bill, adding that if the committee decided to remove other reports then this bill could be included in an omnibus bill to that end. The motion passed unanimously. Sen. Davis and Rep. Eliason were absent for the vote.

MOTION: Sen. Stephenson moved that the chairs direct staff to prepare for the committee's consideration at a future meeting a letter to the Legislative Management Committee that requests the Utah Tax Review Commission to study state and local taxes on business. The motion passed unanimously. Sen. Davis was absent for the vote.

4. Study: Alternative Energy Development Tax Credits

Mr. Jeffrey Barrett, Deputy Director, Office of Energy Development, discussed alternative energy development tax credits. He stated that, though many applications are being processed, no tax credit has been claimed since creation of the tax credit in 2012. He highlighted three projects that have been authorized to claim the tax credit. He mentioned that the tax credit has encouraged alternative energy development in Utah and that alternative energy development projects would likely generate substantial revenue for the state and for local communities.

Rep. Briscoe asked whether there have been applications for wind projects. Mr. Barrett responded that he anticipates one application for a wind project but commented that solar projects are more common due to the beneficial combination in Utah of sunny days, high altitude, and cool temperatures.

Rep. Hutchings complimented the Office of Energy Development on the work it does. He encouraged Mr. Barrett to come to the committee if there were other tools the office needed to continue leading alternative energy development. Mr. Barrett commented that the state incentive for alternative energy development in Utah is attractive to alternative energy businesses because it is less threatened than federal incentives.

Sen. Stephenson commented on the tax base generated by alternative energy facilities.

5. Historic Preservation Tax Credit

Chair Henderson discussed draft legislation "Tax Credit Amendments" (2016FL-0230/005), which was distributed prior to the meeting. She explained that this draft legislation repeals a provision that prohibits a person from carrying forward a tax credit if the Utah State Tax Commission is required to remove the tax credit from a tax return and exempts corporate and individual historic preservation tax credits from provisions requiring the Utah State Tax Commission to remove a tax credit from a tax return.

MOTION: Rep. Cunningham moved that the committee adopt draft legislation "Tax Credit Amendments" as a committee bill. The motion passed unanimously. Rep. Briscoe was absent for the vote.

6. Review of Committee Studies and Reports

Mr. Elder distributed "Revenue and Taxation Interim Committee-Studies, Reviews, and Reports (with recommendations)." He discussed the studies, reviews, and reports the committee is responsible for and mentioned the chairs' recommendation for each one, whether the requirement should be continued, modified, or repealed.

Sen. Stephenson commented that requiring reports concerning taxes on business inputs undermines the benefit of any exemption. He spoke in favor of repealing such requirements.

Rep. Coleman expressed concern about repealing the report required by Section 59-2-303.1 due to noncompliance by some counties. Mr. Elder said all counties have created a database, as required by statute, but commented that all databases may not be used equally. Sen. Harper discussed his experience with county databases and stated that the intent of the statute has been fulfilled.

Rep. Briscoe questioned why a repeal of the reports required by Subsection 59-12-104(14) and Subsection 59-12-104(76) was recommended. Chair Henderson responded by discussing the uncertainty created for businesses by review of business tax policy.

Rep. Hutchings commented that the requirement in Section 59-12-103.1 was unnecessary.

Chair Henderson suggested that the requirement for reviews and reports related to the Governor's Office of Economic Development (GOED) administered income tax credits be modified to include projections of tax credits that will be granted. Rep. Briscoe mentioned concerns about changing the requirement for GOED reports due to recent legislative changes concerning GOED. Sen. Harper suggested changing the requirement to allow for electronic GOED reports.

Dr. Kimberly Henrie, Deputy Director, Governor's Office of Economic Development, commented that GOED is committed to providing to the committee information related to actuals and projections for GOED's incentive programs.

Mr. Elder recommended that the committee specify how it wants each report to be delivered. Chair Henderson recommended that all those that are continued be delivered electronically.

MOTION: Rep. Cunningham moved that the committee adopt the chairs' recommendations with discussed changes and direct staff to draft legislation based on the recommendations.

Rep. Stanard recommended that the reporting requirement in Section 35A-5-306 not be repealed because there has not been sufficient time allowed to evaluate this requirement as it was enacted in the 2014 General Session.

SUBSTITUTE MOTION: Rep. Stanard moved that the committee adopt the chairs' recommendations with discussed changes, including his recommendation that the report required by Section 35A-5-306 be continued, and direct staff to draft legislation based on the recommendations. The motion passed unanimously. Sen. Davis was absent for the vote.

MOTION: Rep. Briscoe moved that the requirements for reports in Subsection 59-12-104(14) and Subsection 59-12-104(76) not be repealed but rather be continued and required electronically. The motion failed with Rep. Briscoe, Rep. Eliason, Rep. Hutchings, Rep. Ivory, Rep. Poulson, and Rep. Stanard voting in favor. Sen. Davis was absent for the vote.

7. Corporate Franchise and Income Taxes – Single Sales Factor Apportionment

Chair Henderson discussed draft legislation "Apportionment of Business Income Amendments" (2016FL-0228/004), which repeals obsolete language and makes technical and conforming changes.

MOTION: Sen. Harper moved that the committee adopt draft legislation "Apportionment of Business Income Amendments" as a committee bill. The motion passed unanimously. Sen. Davis was absent for the vote.

8. Other Items/Adjourn

MOTION: Rep. Stanard moved to adjourn the meeting. The motion passed unanimously. Sen. Davis was absent for the vote.

Chair Henderson adjourned the meeting at 3:17 p.m.